

### REMARKS

This Amendment is a full and timely response to the Office Action dated April 21, 2004. Reexamination and reconsideration are respectfully requested.

#### Information Disclosure Statement

The return of the initialed Form PTO-1449 showing the examiner's consideration of the IDS filed on July 11, 2003 is acknowledged with appreciation. Another IDS, with an authorization to pay the required \$130 fee accompanies this submission. Please take these additional references into account and make their consideration of record.

#### Section 102 Rejection on the Basis of Richmond

Claims 1 to 20 were in this application as filed. Of these, claims 1, 3 to 6, 10 and 12 to 14 were initially rejected on the basis of the patent to Richmond. According to the section 131 declaration by the Applicant, this reference is removed as a reference against the claims of this application.

The Richmond patent, No. 6,715,170 was actually filed on April 1, 2003 claiming domestic priority on the basis of a provisional application No. 60/380,715, filed on May 15, 2002. It is assumed arguendo that the Richmond patent is entitled to its domestic priority date for purposes of the Rule 131 declaration. However, the Applicant reserves the right to challenge that priority claim if the provisional application fails in any way to support the claim for domestic priority.

In the meantime, assuming that the May 15, 2002 date is effective, the Applicant has a provisional application filed on July 12, 2002 as Prov. App. No. 60/395,333. In addition, the Applicant, by the accompanying Rule 131 declaration has shown a date of the completion of the invention that is prior to July 12, 2002. Specifically, the declaration is accompanied by a print with the date excised but which is prior to July 12, 2002 that shows all of the subject matter relied upon by the examiner to reject claims 1, 3 to 6, 10, and 12 to 14.

The Richmond patent relates to a stretcher, not a spine board. In fact, the device of Richmond is designed for many purposes opposite of those for the subject patent, such as floatation, rather than immersion.

The materials that accompany the inventor's declaration include: (1) a large drawing bearing an excised date prior to the effective date of the Richmond patent, which date is stated by the Applicant/Declarant to be earlier than May 15, 2002, the best date to which Richmond is entitled; (2) a group of drawings that accompanied those from which the drawings were made for the provisional application bearing a date that is not complete, except for day of the week, month, time and year (where the year is not complete), that is matched with the year so that the date of completion of this invention is prior to the May 15, 2002 date; (3) a true copy of a written paper introducing "Patent Details and Description" and dated prior to the date of May 15, 2002, including sketches and CAD drawings from which the drawings in the provisional application were prepared. This information collectively shows the invention of at least the claims rejected on the basis of the Richmond patent.

It should be noted that claims 2, 7, 8, 9, 11 and 15 were not rejected on the basis of the Richmond patent. With the foregoing in mind, we turn to the rejections based on Duncan.

#### Absence of Rejections of Claims 4, 8, 9, 10, and 15

Assuming that the Richmond reference is removed because of the Rule 131 Declaration, then it can be noted that no rejections of claims 4, 8, 9, 10, and 15 are made. In fact, claim 15 was found to be allowable (not rejected on either Richmond or Duncan). Accordingly, these claims are placed by set into independent form as follows:

a. Claims 21 to 34

Claim 1 and claim 4 are combined as a new claim 21, and claims 2, 3 and 5 to 15 are retained as dependent directly or indirectly on the new claim 21. New Claim 21 is patentable at least because no rejection has been made against claim 4.

b. Claims 35 to 47

Claim 1 and claim 7 are combined to form a new claim 35, with claims 36 to 47 corresponding respectively to claims 2, 3, 5, 6, and 9 to 40. Claim 35 is patentable for the same reason that the prior rejection is traversed; i.e. Duncan does not show the

limitation of claim 7 to the effect that a tail end of the board is tapered downwardly. Compare Figs. 1 and 4 of the subject application with Fig. 3 of Duncan where the end 42 has one tapered surface but not both as in the applicant's invention.

c. Claims 48 to 60

Claim 48 is a combination of claim 1 and claim 8, relating to a rib on a lower surface of the board and extending downwardly therefrom to act as a rest for the board when the board is placed on a surface. This feature is not shown in Duncan, so that claim 48 is allowable over Duncan. Claims 49 to 60 correspond to claims 2 to 6 and 9 to 15 that are dependent on claim 48.

d. Claims 61 to 72

This next group of claims features as claim 61 a combination of claims 1 and 10 where claim 10 is not rejected on the basis of Duncan. Thus, claims 62, 63, 64, 65, and 66 to 72 correspond in subject matter to claims 2, 3, 5, 6, and 9 to 15 respectively.

Claim 1 has itself been amended to recite that the degree of sealing between the exterior and interior of the spine board prevents or significantly inhibits a transfer of pathogens between the interior and exterior of the board. Such as recitation is supported at least at Paragraph 0031 at page 10 of the application as filed.

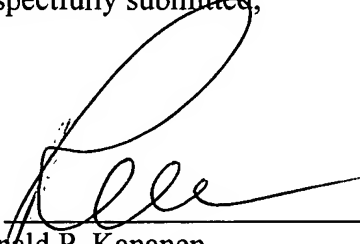
Such a limitation distinguishes over Duncan which is intended to separate the two parts of the board, according to its Abstract for example. Thus, Duncan does not express a possession of that aspect of the Applicant's invention.

Certain claims were rejected as unpatentable over Bologovsky as allegedly being anticipated. Claims 1 is amended in a way that distinguishes from the rejection of claim 1. That is, Bologovsky is silent on the sealing, and in fact uses speed pins. However, Bologovsky does not disclose or teach the limitations of claim 1 as amended to prevent passage of pathogens between the exterior and interior of the board. Reconsideration is respectfully requested.

The claims now pending are believed to be patentable over the art of record and early notice to that effect is solicited.

Respectfully submitted,

Dated: July 16, 2004

By   
\_\_\_\_\_  
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DC136862

In the event additional fees are necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge Deposit Account No. 180013 for any such fees; and applicants hereby petition for any needed extension of time.

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## MAXx

MAXx is a rescue backboard used for immobilization of injured persons resulting from accidents, spinal in nature.

The MAXx backboard is designed with many emergency issues relating to aquatic, EMS, or firefighters situations minimizing the rescue time at the "scene".

MAXx Design FEATURES ARE:

1. The MOST X-rayable backboard with no metal parts or pieces
2. VACUUM formed of Thermal plastic being ultrar strong and capable of heavy weight capacities
3. Urethane foam filled ... eliminates air SPACES
4. Blood born pathogen resistant - ~~is~~ impervious structure with sealed edges
5. Moulded in Speed clip pins
6. Shot pinned hand holes for superior grip
7. Adjustable head immobilizer - can be pediatric or adult
8. Tipped down tail for quicker extrication of Auto accident patients
9. Bottom runners for aquatic rescues and/or ground stabilization
10. Light weight

Exh. B

## Introducing the "MAXx" Backboard - Patent Details and Description

Protocol, ease of use/buoyancy in the water, bloodborne pathogen procedures, EMS specifications, and technological advances have been the design parameters leading to the backboard of the future-- "MAXx"

Designed by George Panton, "MAXx" features a revolutionary adjustable "snap-set" head immobilizing system.

Stability, positive buoyancy, rigidity, sterility, density, and strength have all been addressed to maximize the performance of "MAXx" within the EMS and the aquatic market.

This patent-pending design will be available in the Fall of 2000. This product is a "purpose" built backboard that is unique among any previous designs.

### Features:

- Lightweight polyethylene/poly urethane foam core or ABS
- X-ray translucent
- Integrated design will accommodate snap-in Head Immobilizers
- Maximum human weight limit consistent with strap length maximums
- Larger handholds for greater vertical strap adjustment and safety glove clearance
- Unique dropped tail design allows easier board placement/extrication out of pools, tight spots (i.e. car seats, etc).
- Unique T-shaped tail handles allow easy grasp when flat to the ground or on pool edge
- Side handles are "shot pinned" to facilitate wet (aquatic) rescues
- Deck cradle is smooth for additional comfort
- Fiberglass speed clip pins
- Private label capability
- International Orange in color

Submitted by George Panton Jr.



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PAN-010



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

George S. Panton, Jr.

Application No.: 10/616,978

Group Art Unit: 3673

Filed: July 11, 2003

Examiner: Frederick C. Conley

For: THERMOPLASTIC SPINE BOARD WITH  
ERGONOMIC FEATURES

Conf. No. 2870

DECLARATION UNDER 37 C.F.R. 1.131

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

I, George S. Panton, Jr., a citizen of the United States of America, hereby declare as follows:

1. I am the named applicant and inventor for the above-identified application, am familiar with its contents, and am familiar with the Official Action of April 21, 2004.
2. I understand that the Action relies in part on a patent to Richmond, No. 6,715,170 for a stretcher and have reviewed its contents and claims. The Richmond patent was applied for on April 1, 2003, based on a provisional application filed on May 15, 2002. Assuming for this declaration that Richmond is entitled for all purposes to the benefit of its provisional filing of May 15, 2002, I am able to show completion of my invention prior to "Richmond's effective date" under 37 C.F.R. 1.131
3. I understand that if I can show prior invention, i.e. prior to the

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PAN-010Patent Application

applicable or effective filing date of Richmond under 37 C.F.R. 1.131, the Richmond patent cannot be used against my application. I further understand the requirements of 37 C.F.R. §1.131(b) as to the showing of facts which shall be such, in character and weight, as to establish reduction to practice prior to Richmond's effective date, and that original exhibits of drawings or records, or photocopies thereof, must accompany and form part of this declaration or their absence satisfactorily explained.

4. Exhibit A is a true copy ( and made a part hereof) of an original drawing by me bearing a date as to the original drawing earlier than Richmond's effective filing date, with the date obliterated as I am entitled to do. It bears the legend "Revised Tail" followed by a date that is also earlier than Richmond's effective filing date. Thus, Exhibit A shows completion of the invention prior to Richmond's effective filing date, except for the detail of the downward tail section as in my application and a clear statement of the foam interior as in my application.
5. Exhibit B is a true copy of a written description of features of the invention accompanied by true copies of drawings that accompanied that writeup. Among the drawings are those that show the downwardly directed tail section. The written description refers to the separation between the interior and exterior of my spine board and bears a date earlier than Richmond's effective filing date. The computer generated drawings do not bear a date, but accompanied the original written description bearing a date earlier than Richmond's effective filing date. The last four pages of drawings are labeled "FINALMODEL"; each bears the same date in the form of Day of the Week, Month, Time and the legend 20 or 200 wherein the last one or two digits of the year are cut off by printing (wherein the times are slightly different, but the portions of the dates shown are the same). A review of the Day,

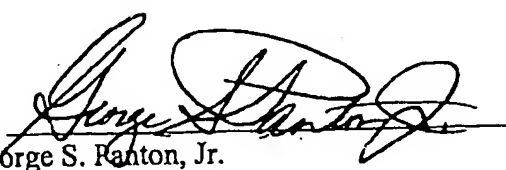


PAN-010Patent Application

- Month, and Date shows these drawings to have been made in a year (and thus in a month) prior to Richmond's effective filing date. These drawings were provided to my attorney for use in preparing my provisional application.
6. My personal recollection is that the invention described in my provisional application and in my utility application were completed prior to Richmond's effective filing date.
7. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued therefrom.

Respectfully submitted,

Dated: June , 2004

By   
George S. Ranton, Jr.  
128 Tomahawk Drive, Suite C  
Indian Harbour Beach, FL 32437

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